

REMARKS/ARGUMENTS

Claims 1-29 are currently pending in this application. Of these, claims 1, 12, 19, 21, and 25 are independent claims. In the Office Action dated June 30, 2005, all claims were rejected as obvious over U.S. Patent no. 6,732,191 to Baker et al. ("Baker") taken in combination with U.S. Patent no. 5,850,523 to Gretta ("Gretta"). Applicants respectfully request favorable reconsideration in view of the following remarks and observations.

Summary

The prior art does not singly or in combination contain sufficient teachings to make obvious any claim of the present application. In particular, for example, the claims recite the use of servlets and the art is devoid of any teaching as to such. Moreover, there is no motivation for one of ordinary skill in the art to have combined the references as suggested.

Detailed Remarks**The Asserted Teachings Are Absent From the References**

Independent claims 1, 12, 19, 21, and 25 stand rejected as obvious over Baker in view of Gretta as noted above. Each independent claim relates to a specific and novel technique for remote monitoring of a Foundation Fieldbus network. The novel technique involves the cooperating use of an applet at the remote site (remote from the Foundation Fieldbus network) and a servlet at the local site in a specific manner. Each claim recites, among other specific limitations, that the system operates in conjunction with a Foundation Fieldbus network, and that an applet and paired servlet are used.

Without going into the other specific details of the claims, it is clear that the cited references, even when combined, do not teach the noted claim elements. In particular, neither reference teaches the use of an applet in the recited manner¹ and neither reference teaches or even mentions a Foundation Fieldbus network² or a servlet. Given this, it follows that the references fail to teach any of the specific aspects and relationships recited in the claims with respect to these three claim terms.

¹ In fact, the one time that Baker mentions applets, it actually *disparages* them: "These applets are interpreted and run within a Web browser and have been generally restricted to word processing and similar uses. Downloading and running applets can be slow in comparison to other types of compiled languages. Security rules imposed on a browser and enforced by the underlying JAVA language prevent applets from obtaining certain data from any other device other than the Web server itself." Baker at 2:13-19.

² Moreover, Baker specifically teaches connecting devices directly to another network via their backplane. See Baker, Figs 2-4.

The Office Action alleges on at least page 3 that "...Baker teaches the use of commercially available programming languages such as JAVA applets/servlets to provide connections to devices for maintenance, repair, debugging and diagnosing problems." This raises two problems. First, there is simply no such teaching in Baker. In fact, as noted above, Baker actually disparages applets and never even mentions servlets.

Secondly, even if Baker had contained the alleged teaching, the claims at issue do not recite the general use of applets and servlets to "provide connections to devices for maintenance, repair, debugging and diagnosing problems." Rather, they recite specific limitations as to the cooperative use of an applet/servlet pair to access a Foundation Fieldbus.

Moreover, with respect to the first point, since the alleged teaching does not appear in Baker, Applicants view the assertion as one of either inherency or Official Notice. If the stated teaching is said to be inherent, Applicants respectfully request sufficient reasoning or documentation to show that the teaching, although not expressly set forth in Baker, necessarily and invariably flows from the teachings of Baker. If the stated teaching flows from an assertion of Official Notice, Applicants respectfully traverse the assertion and request sufficient reasoning or documentation to support the taking of Official Notice.

Not only does Baker have the foregoing deficiencies with respect to the targeted claim elements, but Gretta does not ameliorate these shortcomings, and the action does not cite Gretta for any of these elements.

The Office action does cite Gretta as providing certain other elements of the independent claims. In particular, the Office action alleges at page 5 that Gretta teaches "transmitting at least one signal...to cause the local host node to invoke execution of a servlet on the local host node, and further to cause the servlet to receive process data ...and to transmit the received process data to the remote host..." The action cites Gretta at 1:17 through 2:41 and 3:50 through 4:51 for this teaching.

Applicants have scoured the cited section as well as the rest of reference and can find no teaching that even mentions a "servlet," let alone the specific servlet functionality and actions that the claims recite, as duplicated in the Office action. Rather, the first cited section appears to be simply background material related to a fieldbus stack structure and the second section is the entire "Summary of the Invention" (however, since the invention makes no use of servlets, this section as well omits any mention of such).

Thus, the cited art plainly fails to teach or suggest the limitations of independent claims 1, 12, 19, 21, and 25.

With respect to the dependent claims, the elements of such claims are also generally absent from the cited art. For example, with respect to claims 2, 15, and 24, these claims provide additional recitations as to the nature of the applet and servlets. However, since neither reference even mentions servlets, the references cannot, alone or even in combination, teach the recited additional features thereof recited in claims 2, 15, and 24.

As another example, claims 7 and 8 contain recitations relating to timing between the applet and servlets, and relate to a particular probe technique to assure timeliness. Even ignoring the absence of the servlets in the cited art, these remaining claim limitations are also not shown. Moreover, the Office action does not even allege that such is taught—the action simply states that Baker and Gretta disclose “further comprising the step of inspecting a time stamp at the applet, wherein the time stamp is associated with the transmitted process data, to determine whether the transmitted process data is timely.” Although this is a verbatim reproduction from claim 6, the action fails to address the limitations of claims 7 and 8. Therefore, the action fails to even present a prima facie case of obviousness with respect to these claims. There are similar issues with a number of claims, but such issues are moot at this point given that the independent claims are patentable over the cited art. Should the relevant claims at some point be unpatentable over cited art, Applicants reserve the right to revisit this issue with respect to other dependent claims.

Baker and Gretta Are Not Legally Combinable

In order for multiple references to be combinable to make obvious any claim, there must be a motivation in the art to combine the references. Here, the action combines Baker and Gretta to assert obviousness of all claims. However, there is no legally or logically proper motivation given for the combination.

The action notes that one of skill in the art would be motivated to combine Baker and Gretta in order to “to develop a system whereby a user could use general purpose networks, such as the Internet and specialized industrial networks (i.e. fieldbus networks) to connect devices to remote monitoring and controlling. This is almost exactly what appears in Baker at 2:56-59 (“...to develop [a] ... system whereby a user could use general purpose networks, such as the Internet and specialized industrial networks, directly connected to input/output


devices for remote monitoring and control ...”). Thus, why would one of skill in the art look to another reference to find functionality that Baker *already provides*? They wouldn’t. Thus, as a legal and logical matter, the cited motivation to combine the references is not a motivation to do anything other than practice the teachings of Baker alone.

Conclusion

For the reasons stated above, it is respectfully submitted that independent claims 1, 12, 19, 21, and 25 of this application are patentable over Baker and Gretta, taken singly or in combination. Moreover, as stated above, the dependent claims are also considered to be patentable for the same as well as other reasons. Thus, Applicants request that the rejections of the pending claims be favorably reconsidered and withdrawn.

If the Examiner feels that a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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